

AMENDED IN SENATE JUNE 11, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 838

Introduced by Assembly Member Spitzer

February 20, 2003

An act to add Section 57386 to the Government Code, relating to local agency formation.

LEGISLATIVE COUNSEL'S DIGEST

AB 838, as amended, Spitzer. Preincorporation regulations: City of Rancho Santa Margarita.

Existing law requires the city council of a newly incorporated city to adopt an ordinance making all county ordinances previously applicable, to remain in full force and effect as city ordinances for a period of 120 days after incorporation, or until the city council has enacted ordinances superseding the county ordinances, whichever occurs first, except as specified.

This bill would require, upon the effective date of the incorporation of the City of Rancho Santa Margarita, that any *locally imposed* restriction or regulation contained in a written instrument entered into relating to real property within the boundaries of the city that purports to regulate design or development standards, requirements, or conditions on the development, use, or occupancy of any commercial or industrial property is superseded, except as specified.

This bill would make legislative findings and declarations that special legislation is necessary within the meaning of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 57386 is added to the Government
2 Code, to read:

3 57386. (a) The Legislature finds and declares of all of the
4 following:

5 (1) It is the intent of the Legislature that the newly incorporated
6 City of Rancho Santa Margarita be provided the broadest possible
7 opportunity to establish and implement necessary or desirable,
8 general plan policies, local zoning regulations, and building and
9 construction requirements while also preserving private property
10 rights.

11 (2) Certain regulations imposed by a master business
12 association predating incorporation that operate to limit use and
13 regulate development standards for commercial and industrial
14 property within the City of Rancho Santa Margarita frustrate the
15 ability of the city to establish and implement communitywide,
16 uniform, and consistent land use and building and construction
17 policies, regulations, and requirements. These regulations also
18 serve to unreasonably restrict opportunities for full and free
19 competition among business enterprises that are necessary for the
20 continued financial viability of the City of Rancho Santa
21 Margarita.

22 (3) It is the public policy of this state that the incorporation of
23 the City of Rancho Santa Margarita constitutes a significant
24 changed circumstance and significant societal interest that
25 supports a determination that certain preincorporation private land
26 use restrictions or regulations be superseded to the extent that these
27 restrictions or regulations are in conflict with the new city's
28 general plan policies, local zoning regulations, or building and
29 construction requirements.

30 (b) Upon the effective date of the incorporation of the City of
31 Rancho Santa Margarita, any *locally imposed* restriction or
32 regulation contained in a written instrument entered into relating



1 to real property within the boundaries of the city that purports to
2 regulate design or development standards, requirements, or
3 conditions on the development, use, or occupancy of any
4 commercial or industrial property are superseded to the extent they
5 are inconsistent or in conflict with any of the city's general plan
6 policies, local zoning regulations, or building and construction
7 requirements.

8 SEC. 2. Due to the unique circumstances of the City of
9 Rancho Santa Margarita with respect to the need to supersede
10 preincorporation restrictions or regulations that are inconsistent or
11 in conflict with development in the area, the Legislature hereby
12 finds and declares that a general statute cannot be made applicable
13 within the meaning of Section 16 of Article IV of the California
14 Constitution. Therefore, the special legislation contained in
15 Section 1 of this act is necessarily applicable only to the City of
16 Rancho Santa Margarita.

